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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,538	09/27/2001	Takayo Katsuki	36856.550	8080

7590

04/18/2003

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EXAMINER

EASTHOM, KARL D

ART UNIT

PAPER NUMBER

2832

DATE MAILED: 04/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/965,538

Applicant(s)
Katsuki et al.

Examiner
Karl Easthom

Art Unit
2832



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 29, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6 6) ☐ Other: _____

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Katsuki et al. '779. Katsuki discloses the claimed invention at Fig. 1 with junction portion 111a, short vertical leg portion adjacent the label "Fig. 1" and lower end portion of 111 rests on the circuit board.. Katsuki et al. also discloses the claimed invention at Figs. 7 or 3, where 30a 121a, or the part of 111a are vertical leg portion since 30a has a vertical part where the button part meets extends down to meet the horizontal part 30, and 121a and 111 have vertically extending parts from the electrodes 111a or 101. Or, element 421 has a bent vertical portion as described at col. 7, lines 31-47 since it is "rectangular" instead of "circular" as depicted, meeting claim 2, "in the vicinity of the center. Or, element 431 at Fig. 7 or element 121 at Fig. 3 are bent vertically at an angle of about 90 degrees, with a lower-end portion substantially parallel to the junction portion where the junction portion has a finite area on top that is flat. The portion of upper terminal 5, 114 or 124 is extended downward - either the parts on the outside of the case, or the part 54 touching the thermistor in Fig. 7.. (Either of these is a vertical leg portion meeting claim 9, with the bent part 51 and the part 54 meets claim 9). Also the portion of 4 outside or inside the case at Fig. 7 extends downward as seen. The horizontal connection portion of claim 7 is 41 since it is bent and connects to a substrate.

3. Claims 1-4 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Camp. Camp discloses the claimed invention at Fig. 2 with junction portion of 14 bonded to the thermistor, and portion 15 substantially parallel thereto. The short vertical leg portion is adjacent end portion 15, meeting claim 7. Or, at Fig. 4, one sees the bent vertical portions of 14 along the bottom of thermistor 10, "in the vicinity of the center", meeting claims 2-3, and 8. The button shape is seen at Fig. 6 for claim 4. Part 12b is the part of the upper terminal is extended downward, meeting claim 9. In claim 10 the bend is seen at Fig. 1 as 15, or 13 is bent at Fig. 2. The electrodes are the conductive coating noted at col. 2, lines 18-24.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

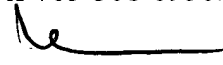
5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camp or Katsuki et al. '779, in view of Nagao et al. The claimed invention is as disclosed above except for the electrode material. Nagao discloses such a material at the abstract as conventional and for improving flash resistance, see col. 6 and table 5. It would have been obvious to employ the well known material in the manner of Nagao to improve the flash resistance.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camp or Katsuki et al. '779, in view of Ikeda et al. The claimed invention is as disclosed above except for the electrode material. Ikeda discloses such a material at col. 10, lines 1-5 as a good elastic material

for improving thermistors, such that it would have been obvious to employ the well known material in the manner of Ikeda to improve the elasticity.

7. Applicant's arguments filed 3/13/03 have been fully considered but they are moot, or persuasive only as to the removed rejections. The lower-end portion is not disclosed or suggested in Takakura et al. (JP' 206), Honkomp, or Ikeda et al., contrary to any suggestion otherwise, where the lower end portion of each reference does not extend substantially parallel to the junction portion. Applicant argues that Katsuki et al. does not disclose the vertical-leg portion that is substantially perpendicular. This is not correct because other portions of Takakura as noted above meet the claim. As to the argument concerning the term "about" as one of degree, and that the Examiner is expanding the scope too much, this is not correct. MPEP 2173.05(b) clearly indicates that greater criticality as to the meaning of the terms specificity is required where the element of degree relied upon is the element argued to distinguish the claims over the prior art. See Amgen, Inc. V. Chugai Pharmaceutical Co., 18 USPQ2dn 1016 (Fed.Cir. 1991). As there is no such limiting definitions in the specification and applicant appears to be arguing that the flexible terms define over the art, the broad interpretations by the Examiner are not undue. Nonetheless, those interpretations are employed in the alternative to those above.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Easthom whose telephone number is (703)308-3306. The examiner can normally be reached on M-Th. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad, can be reached on (703)308-7619. The fax phone number for the organization where this application or proceeding is assigned is (703)308-7722. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


KARL D. EASTHOM
PRIMARY EXAMINER